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6 **IN THE UNITED STATES DISTRICT COURT**
7
8 **FOR THE DISTRICT OF NEVADA**

9 BRADLEY SUMMERS and MICHELLE
SUMMERS,

10 Plaintiffs,

11 v.

12
13 MCWANE, INC.; DOES I through XX,
inclusive; and ROE CORPORATIONS I through
14 XX, inclusive,

15 Defendants.
16

Case No. 2:15-cv-01239-JCM-GWF

**STIPULATION TO EXTEND
DISCOVERY**

(Fifth Request)

17 IT IS HEREBY STIPULATED AND AGREED, by Plaintiffs and Defendants, by and
18 through their undersigned counsel, that discovery be extended beyond the Discovery Schedule in the
19 Stipulation and Order to Extend Discovery dated March 21, 2018 (Document No. 33).

20 Per Federal Rules of Civil Procedure 16(b), and Local Rule 26-4 the following is included in
21 support of the proposed extension to the Discovery Schedule:

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A. STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED

<u>Date</u>	<u>Description</u>
8/14/15	Plaintiffs' Initial FRCP 26.1 Disclosure
9/21/15	Plaintiff Bradley Summers' First Set of Interrogatories to Defendant
9/21/15	Plaintiff Bradley Summers' First Set of Requests for Production to Defendant
9/23/15	Defendant's Interrogatories to Plaintiff Bradley Summers
10/30/15	Plaintiffs' First Supplement to FRCP 26.1 Disclosure
10/31/15	Plaintiff Bradley Summers' Responses to Defendant's Interrogatories
11/10/15	Defendant's Initial FRCP 26.1 Disclosure
11/12/15	Defendant's Responses to Bradley Summers' First Set of Requests for Production to Defendant
11/12/15	Defendant's Responses to Plaintiff Bradley Summers' First Set of Interrogatories to Defendant
1/6/16	Defendant's Supplemental Responses to Bradley Summers' First Set of Requests for Production to Defendant
1/6/16	Defendant's First Supplement to FRCP 26.1 Disclosure
1/8/16	Defendant's Supplemental Responses to Plaintiff Bradley Summers' First Set of Interrogatories to Defendant
3/16/16	Plaintiffs' Second Supplement to FRCP 26.1 Disclosure
3/22/16	Defendant's Second Supplement to FRCP 26.1 Disclosure
4/4/16	Defendant's Third Supplement to FRCP 26.1 Disclosure
4/21/16	Inspection of the fire hydrant
5/17/16	Deposition of Bradley Summers
5/26/16	Deposition of Mike Anderson
6/17/16	Deposition of PMK of McWane
7/28/16	Defendant's Fourth Supplement to FRCP 26.1 Disclosure
7/29/16	Plaintiff's Second Set of Request for Production of Documents to Defendants
8/9/16	Deposition of Rex Kelsey
8/15/16	Plaintiff's Initial Expert Disclosures
8/15/16	Defendant's Initial Expert Disclosures
8/15/16	Joint Interim Status Report
8/19/16	Plaintiff's First Supplemental Expert Disclosures
9/14/16	Defendant's Supplemental Expert Disclosures
9/21/16	Deposition of Rex Kelsey
9/29/16	Deposition of Plaintiff's Frank Perez, Ph.D.
9/30/16	Deposition of Plaintiff's Expert Robert Anderson, Ph.D.
10/5/16	Deposition of Defendant's Expert David Komm, P.E.
10/10/16	Deposition of Todd French
10/11/16	Deposition of Plaintiff's Expert Sherry Latham, RN
10/11/16	Deposition of Plaintiff's Non-Retained Expert Meher Yepremyan, M.D.

1	10/12/16	Deposition of Plaintiff's Expert Marietta Nelson
2	10/12/16	Defendant's Sixth Supplement to FRCP 26.1 Disclosures
3	10/13/16	Deposition of Michelle Summers
4	10/13/16	Plaintiffs' Third Supplement to FRCP 26.1 Disclosure
5	10/14/16	Plaintiffs' Fourth Supplement to FRCP 26.1 Disclosure
6	10/24/16	Plaintiffs' Fifth Supplement to FRCP 26.1 Disclosure
7	10/26/16	Plaintiffs' Second Supplemental Expert Disclosures
8	11/9/16	Deposition of Plaintiff's Expert Stan Smith, Ph.D.
9	11/9/16	Plaintiffs' Sixth Supplement to FRCP 26.1 Disclosure
10	11/15/16	Plaintiff's Third Supplemental Expert Disclosures
11	12/9/16	Defendant's Seventh Supplement to FRCP 26.1 Disclosures
12	4/18/17	Plaintiff's Seventh Supplement to FRCP 26.1 Disclosures
13	5/5/17	Defendant's Eighth Supplement to FRCP 26.1 Disclosures
14	5/5/17	Plaintiff's Fourth Supplemental Expert Disclosures
15	5/5/17	Plaintiff's Eighth Supplement to FRCP 26.1 Disclosures
16	5/10/17	Plaintiff's Ninth Supplement to FRCP 26.1 Disclosures
17	7/13/17	Plaintiff's Fifth Supplemental Expert Disclosures
18	10/17/17	Plaintiff's Tenth Supplement to FRCP 26.1 Disclosures
19	11/8/17	Plaintiff's Eleventh Supplement to FRCP 26.1 Disclosures
20	11/27/17	Plaintiff's Twelfth Supplement to FRCP 26.1 Disclosures
21	12/11/17	Defendant's Third Supplemental Designation of Expert Witnesses
22	1/12/18	Plaintiff's Thirteenth Supplement to FRCP 26.1 Disclosures
23	1/16/18	Defendant's Ninth Supplement to FRCP 26.1 Disclosures
24	1/16/18	Plaintiff's Fourteenth Supplement to FRCP 26.1 Disclosures
25	1/26/18	Plaintiffs' Initial Expert Disclosures
26	1/26/18	Defendants Fourth Supplemental Designation of Expert Witnesses
27	1/26/18	Defendants Second Set of Interrogatories to Plaintiff
28	2/7/18	Plaintiffs Third Set of Request for Production of Documents to Defendants
	2/23/18	Plaintiffs' Rebuttal Expert Disclosures
	2/23/18	Defendants Fifth Supplemental Designation of Expert Witnesses
	2/28/18	Plaintiff's Responses to Defendant's Second Set of Interrogatories
	3/9/18	Defendant's Sixth Supplemental Designation of Expert Witnesses
	3/19/18	Plaintiff's Fifteenth Supplement to FRCP 26.1 Disclosures
	3/28/18	Defendant's Responses to Plaintiff's Third Set of Request for Production of Documents
	5/7/18	Plaintiff's Sixth Supplemental Initial Disclosure of Expert Witnesses

B. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED

1. Deposition of Defendants' Experts Kerry Knapp
2. Deposition(s) of Plaintiffs' Experts Winthrop Smith and follow up for Marietta Nelson MD;

1 **C. REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED**
2 **WITHIN THE DEADLINES CONTAINED IN THE AMENDED DISCOVERY**
3 **SCHEDULING ORDER**

4 The parties have been diligently working together to schedule the last three remaining
5 depositions in this case however due to calendar conflicts with both counsel and the experts'
6 schedule, in addition to two (2) of the expert witnesses being out of state, the depositions have not
7 been able to proceed before the current discovery deadline. Nevertheless, the parties were able to
8 schedule two of the depositions and currently have Defendants' biomechanical expert Kerry Knapp,
9 Ph.D's deposition scheduled for July 24, 2018 in Flagstaff, Arizona and Plaintiff's biomechanical
10 expert Winthrop Smith, Ph.D's deposition scheduled for August 10, 2018 in Pleasanton, California.
11 The parties are currently working to schedule the follow up deposition of Plaintiff's expert Marietta
12 Nelson, M.D. who is local and do not anticipate any difficulty with completing her deposition before
13 the proposed discovery deadline.

14 In light of foregoing and to allow the parties to complete the remaining depositions the
15 parties agree that a 60 day should be sufficient.

16 **D. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY.**

17 Per Local Rule 26-4(d) we propose the following schedule:

18 1. **Discovery Cut-Off Date:** The last day to conduct discovery shall be **August 28,**
19 **2018.**

20 2. **Dispositive Motions:** The date for filing dispositive motions shall extended for thirty
21 days until **September 27, 2018**, 30 days after the proposed amended discovery cut-off date. In the
22 event that the discovery period is again extended from the discovery cut-off date set forth in this
23 proposed Discovery Plan and Scheduling Order, the date for filing dispositive motions shall be
24 extended to be not later than 30 days from the subsequent discovery cut-off date.

25 3. **Pretrial Order:** The date for filing the joint pretrial order shall not be later than
26 **October 29, 2018**, 30 days after the cut-off date for filing dispositive motions. In the event that
27 dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30
28 days after decision on the dispositive motions or until further order of the court. In the further event

1 that the discovery period is extended from the discovery cut-off date set forth in this Discovery Plan
2 and Scheduling Order, the date for filing the joint pretrial order shall be extended in accordance with
3 the time periods set forth in this paragraph.

4 4. **Fed.R.Civ.P. 26(a)(3) Disclosures:** The disclosures required by Fed.R.Civ.P.
5 26(a)(3), and any objections thereto, shall be included in the joint pretrial order.

6 5. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** Any
7 stipulation or motion must be made no later than 21 days before the subject deadline. Requests to
8 extend discovery deadlines must comply fully with LR 26-4.

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10 DATED this 20th day of June, 2018

DATED this 20th day of June, 2018.

11 SHOOK & STONE, CHTD.

STEPHENSON & DICKINSON, P.C.

12
13 /s/ John B. Shook
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ORDER

It is so ordered.

DATED this 21st day of June, 2018.


U.S. MAGISTRATE JUDGE